

AMENDED IN ASSEMBLY JANUARY 17, 2014

AMENDED IN ASSEMBLY JANUARY 6, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 1234**

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**Introduced by Assembly Member Levine**

February 22, 2013

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An act to amend Section 1215.8 of the Insurance Code, relating to insurance.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1234, as amended, Levine. Insurance: registration statements.

Existing law governs the business of insurance and authorizes the Insurance Commissioner to provide oversight over the insurance industry, including conducting investigations and bringing enforcement actions.

Existing law requires each insurer that is authorized to do business in this state and that is a member of an insurance holding company system to register with the commissioner and to file a registration statement containing specified information, including the capital structure and general financial condition of the insurer and specified transactions between the insurer and its affiliates.

Existing law makes the information reported to the commissioner in the registration statement and information disclosed in the course of an examination or investigation of the registration statement exempt from subpoena or public disclosure, except as specified.

This bill would ~~provide that~~ *instead make* information reported to the commissioner in the registration statement and information disclosed in the course of an examination or investigation of the registration

statement ~~is exempt from public disclosure by the commissioner and~~  
not subject to discovery ~~from the commissioner~~ or admissible into  
evidence in any private civil action ~~if obtained from the commissioner~~  
~~in any manner, except as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1215.8 of the Insurance Code is amended  
2 to read:

3 1215.8. (a) All information, documents, and copies thereof  
4 obtained by or disclosed to the commissioner or any other person  
5 in the course of an examination or investigation made pursuant to  
6 Sections 1215.4 and 1215.5, and all information reported pursuant  
7 to Section 1215.4, shall be kept confidential, ~~shall is not be~~ subject  
8 to disclosure ~~by the commissioner~~ pursuant to the California Public  
9 Records Act (Chapter 3.5 (commencing with Section 6250) of  
10 Division 7 of Title 1 of the Government Code), ~~shall is not be~~  
11 subject to subpoena, and ~~shall is not be~~ subject to discovery ~~from~~  
12 ~~the commissioner~~ or admissible into evidence in any private civil  
13 action ~~if obtained from the commissioner in any manner~~. This  
14 information shall not be made public by the commissioner or any  
15 other person except to insurance departments of other states without  
16 the prior written consent of the insurance company to which it  
17 pertains, unless the commissioner, after giving the insurer and its  
18 affiliates who would be affected thereby notice and opportunity  
19 to be heard, determines that the interests of policyholders,  
20 shareholders, or the public will be served by the publication thereof,  
21 in which event he or she may publish all or any part thereof in a  
22 manner as he or she may deem appropriate.

23 (b) In order to assist in the performance of the commissioner's  
24 duties, the commissioner:

25 (1) May, upon request, be required to share documents,  
26 materials, or other information, including the confidential and  
27 privileged documents, materials, or information subject to  
28 subdivision (a), with other state, federal, and international  
29 regulatory agencies, with the NAIC and its affiliates and  
30 subsidiaries, and with state, federal, and international law  
31 enforcement authorities, including members of any supervisory

1 college described in Section 1215.7; provided that the recipient  
2 agrees in writing to maintain the confidentiality and privileged  
3 status of the documents, materials, or other information, and has  
4 verified in writing the legal authority to maintain confidentiality.

5 (2) Notwithstanding paragraph (1), ~~the commissioner~~ may only  
6 share confidential and privileged documents, materials, or  
7 information reported pursuant to subdivision (m) of Section 1215.4  
8 with commissioners of states having statutes or regulations  
9 substantially similar to subdivision (a) and who have agreed in  
10 writing not to disclose the information.

11 (3) May receive documents, materials, or information, including  
12 otherwise confidential and privileged documents, materials, or  
13 information, from the NAIC and its affiliates and subsidiaries and  
14 from regulatory and law enforcement officials of other foreign or  
15 domestic jurisdictions, and shall maintain as confidential or  
16 privileged any documents, materials, or information received with  
17 notice or the understanding that it is confidential or privileged  
18 under the laws of the jurisdiction that is the source of the  
19 documents, materials, or information.

20 (4) May enter into written agreements with the NAIC governing  
21 sharing and use of information provided pursuant to this  
22 subdivision consistent with this subdivision that shall do the  
23 following:

24 (A) Specify procedures and protocols regarding the  
25 confidentiality and security of information shared with the NAIC  
26 and its affiliates and subsidiaries pursuant to this subdivision,  
27 including procedures and protocols for sharing by the NAIC with  
28 other state, federal, or international regulators.

29 (B) Specify that ownership of information shared with the NAIC  
30 and its affiliates and subsidiaries pursuant to this subdivision  
31 remains with the commissioner and the NAIC's use of the  
32 information is subject to the direction of the commissioner.

33 (C) Require prompt notice to be given to an insurer whose  
34 confidential information in the possession of the NAIC pursuant  
35 to this subdivision is subject to a request or subpoena to the NAIC  
36 for disclosure or production.

37 (D) Require the NAIC and its affiliates and subsidiaries to  
38 consent to intervention by an insurer in any judicial or  
39 administrative action in which the NAIC and its affiliates and  
40 subsidiaries may be required to disclose confidential information

1 about the insurer shared with the NAIC and its affiliates and  
2 subsidiaries pursuant to this subdivision.

3 (c) The sharing of information by the commissioner pursuant  
4 to this subdivision shall not constitute a delegation of regulatory  
5 authority or rulemaking, and the commissioner is solely responsible  
6 for the administration, execution, and enforcement of the provisions  
7 of this article.

8 (d) No waiver of any applicable privilege or claim of  
9 confidentiality in the documents, materials, or information shall  
10 occur as a result of disclosure to the commissioner under this  
11 section or as a result of sharing as authorized in subdivision (c).

12 (e) Documents, materials, or other information filed in the  
13 possession or control of the NAIC pursuant to this subdivision  
14 shall be confidential by law and privileged, shall not be subject to  
15 subpoena, and shall not be subject to discovery or admissible in  
16 evidence in any private civil action.